

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID HABER,

Plaintiff,

-against-

CREDIT SESAME; CREDIT ONE BANK, N.A.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/3/2020

1:19-CV-11105 (VEC)

ORDER OF SERVICE

VALERIE CAPRONI, United States District Judge:

Plaintiff, who appears *pro se*, brings this action asserting claims under the Credit Repair Organizations Act and state law. He sues Credit Sesame and Credit One Bank, N.A. (“Credit One”). Plaintiff filed his original complaint in the United States District Court for the Eastern District of New York. That court granted Plaintiff *in forma pauperis* (“IFP”) status, *Haber v. Credit One Bank, Nat’l Ass’n*, No. 19-CV-3784, 4 (E.D.N.Y. Aug. 22, 2019), before transferring the action to this Court. The Court directs service on the defendants.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *See Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the Court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the amended complaint on the defendants until the Court reviewed the amended complaint and ordered that summonses be issued for the defendants. The Court therefore extends the time

to serve the defendants until 90 days after the date that the summonses for the defendants are issued. If the amended complaint is not served on the defendants within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) (summary order) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Credit Sesame and Credit One through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of those defendants. The Clerk of Court is further instructed to issue summonses for Defendants Credit Sesame and Credit One, and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service on those defendants.

Plaintiff must notify the Court if his address changes, and the Court may dismiss this action if Plaintiff fails to do so.

CONCLUSION

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff, together with an information package.

The Court further directs the Clerk of Court to issue summonses for Defendants Credit Sesame and Credit One, complete USM-285 forms with the service addresses those defendants, and deliver all documents necessary to effect service on those defendants to the U.S. Marshals Service.

SO ORDERED.

Dated: January 3, 2020
New York, New York



VALERIE CAPRONI
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Credit Sesame
444 Castro Street, Suite 500
Mountain View, California 94041
2. Credit One, N.A.
6801 South Cimarron Road
Las Vegas, Nevada 89113